



CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1228

[Docket No. CPSC-2014-0018]

Safety Standard for Sling Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In January 2017, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for sling carriers under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference the 2015 ASTM voluntary standard for sling carriers that was in effect at the time and supplemented it with an additional requirement for warning label attachment. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard when the voluntary standards organization revises the standard. Consistent with the CPSIA's update process, the Commission issued a direct final rule in April 2020, that revised the incorporation by reference for the mandatory standard for sling carriers to reflect ASTM's revised 2019 voluntary standard, while retaining the additional requirement for warning label attachment. In November 2021, ASTM approved a revision to the voluntary standard for sling carriers, ASTM F2907-21. However, ASTM delayed notification to the CPSC until a revised version of the standard was published in April 2022, ASTM F2907-22. On June 3, 2022, through publication in the *Federal Register*, the Commission provided notice of the availability of the revised standard and sought comments on the effect of the revisions on the safety of the standard for sling carriers. No comments were received. Consistent with the CPSIA's update process, this direct final rule again updates the mandatory standard for sling carriers to incorporate by reference ASTM's 2022 version of the voluntary standard, while retaining the additional requirement for warning label attachment.

DATES: The rule is effective on November 19, 2022, unless CPSC receives a significant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If CPSC receives such a comment, it will publish a notice in the *Federal Register*, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of November 19, 2022.

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2014-0018, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (e-mail), except as described below.

Mail/hand delivery/courier Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you must submit such comments by mail, hand delivery, or courier, or by email to: cpsc-os@cpsc.gov.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2014-0018, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-6820; e-mail: kwalker@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). A mandatory standard must be “substantially the same as” the corresponding voluntary standard, or it may be “more stringent than” the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies a process for updating the Commission’s rules when a voluntary standards organization revises a standard that the Commission previously incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15

U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B).

2. Safety Standard for Sling Carriers

Under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for sling carriers, codified in 16 CFR part 1228. The rule incorporated by reference ASTM F2907-15, *Standard Consumer Safety Specification for Sling Carriers*, with an additional requirement for warning label attachment. 82 FR 8671 (Jan. 30, 2017). The Commission's warning label addition required "Warning labels that are attached to the fabric with seams shall remain in contact with the fabric around the entire perimeter of the label, when the sling is in all manufacturer recommended use positions." At the time the Commission published the final rule, ASTM F2907-15 was the current version of the voluntary standard.

On January 8, 2020, ASTM notified the Commission that it had updated the sling carrier standard with revised requirements for test methods, labeling, and instructional literature in ASTM F2907-19. The Commission concluded those revisions improved the safety of sling carriers. As such, in accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the revised standard became the new mandatory standard for sling carriers. The Commission accordingly published a direct final rule to update 16 CFR part 1228, incorporating by reference ASTM F2907-19, while retaining the additional requirement for warning label attachment. 85 FR 21766 (April 20, 2020).

In November 2021, ASTM approved another revision to the voluntary standard for sling carriers, ASTM F2907-21. However, ASTM delayed notification to the CPSC until a revised version of the standard was published in April 2022, ASTM F2907-22. On May 23, 2022, ASTM notified the Commission of the revised voluntary standard for sling carriers, as approved on April 1, 2022. This revised version includes revisions made to the voluntary standard in 2021 (ASTM F2907-21) and 2022 (ASTM F2907-22). However, the revisions do not include the additional requirement for warning label attachment, as required under 16 CFR part 1228.

As discussed in section **B. Revisions to ASTM F2907**, based on CPSC staff's review of ASTM F2907-22,¹ the Commission will allow the revised voluntary standard to become the mandatory standard, while retaining the warning label attachment requirement.² Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F2907-22 will become the mandatory consumer product safety standard for sling carriers on November 19, 2022. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1228 to incorporate by reference the revised voluntary standard, ASTM F2907-22, with the additional requirement for warning label attachment.

B. Revisions to ASTM F2907

The ASTM standard for sling carriers includes performance requirements, test methods, and requirements for marking, labeling, and instructional literature, to address hazards to children associated with sling carriers. ASTM F2907-22 contains substantive revisions as well as editorial, non-substantive revisions that were made to the voluntary standard in 2021 (ASTM F2907-21) which were subsequently adopted in the updated 2022 version of the standard with one change to Figure 6 (ASTM F2907-22). This section describes the changes in ASTM F2907-22 (including the changes initially made in ASTM-F2907-21), as compared to ASTM F2907-19, which is the current mandatory standard under 16 CFR part 1228 and includes an assessment of those changes.

1. ASTM F2907-21

Non-substantive Revisions

ASTM F2907-21 included several non-substantive changes, such as renumbering of sections, spacing, and formatting. ASTM also made minor language revisions and made various edits to bring the standard into alignment with current Ad Hoc Wording Task Group (Ad Hoc

¹ CPSC staff's briefing package regarding ASTM F2670-22 is available at: Newsroom - FOIA | CPSC.gov.

² The Commission voted 4-1 to approve this notice. Chair Hoehn-Saric, Commissioners Baiocco, Boyle, and Feldman voted to approve the notice as drafted. Commissioner Trumka voted not to approve the publication of the notice in the *Federal Register* based on his determination that the proposed revision does not improve the safety of sling carriers.

TG) recommendations.³ These changes do not materially affect the safety of sling carriers. One section, 5.9 Scissoring, Shearing, and Pinching, has been edited to provide for reference to the manufacturer's recommended "use position(s)" instead of "carrying position," and it also changes the language in the description of a scissoring, shearing, or pinching hazard from "shall not be permissible" to "exists." These changes explain when a scissoring shearing or pinching hazard exists. Section 5.9 still retains existing language from 16 CFR part 1228, to require products to "be designed and constructed so as to prevent injury to the occupant from any scissoring, shearing, or pinching when members or components rotate about a common axis or fastening point, slide, pivot, fold, or otherwise move relative to one another." Thus, the edits are neutral, non-substantive edits with respect to safety because they do not change or otherwise diminish any existing performance requirements for scissoring, shearing, and pinching.

Other non-substantive changes were made to sections 8.2 and 8.3. ASTM 2907-21 adds section 8.2, which states that the marking and labeling on the product shall be permanent. This section is consistent with section 8.1, which states that each product and its retail package shall be permanently marked. Accordingly, this change is neutral with respect to safety.

In section 8.3, ASTM 2907-21 makes grammatical edits to the current standard changing "any upholstery label" to "any upholstery labeling" and "outlined in 8.1" to "of this section." Because these changes do not change the meaning of this section, the edits are neutral with respect to safety.

Substantive Revisions

ASTM F2907-21 included several substantive changes.

a. Introduction

³ ASTM convened a task group, ASTM Ad Hoc Wording Task Group (Ad Hoc TG), consisting of members of the various durable nursery products voluntary standards committees, including CPSC staff. The purpose of the Ad Hoc TG is to harmonize the wording, as well as the warning format, across durable infant and toddler product voluntary standards. This latest revision to the Ad Hoc Language recommendations can be found in the Committee Documents" section of the Committee F15 on Consumer Products ASTM website, here: <https://www.astm.org>. This link is accessible to Committee F15 members only.

The current standard provides in the Introduction section that the voluntary standard is intended to address incidents associated with “occupant retention.” The Introduction section in ASTM F2907-21 has been revised to specifically state that the voluntary standard addresses “fall and suffocation hazards.” In addition, the Introduction replaces language in the current standard that states that the standard “does not apply to products that are blatantly misused, nor does it apply to products used by consumers in a careless manner that violate normal practice or disregard the instructions or warnings provided with the product, or both.” The Introduction section in ASTM F2907-21 now states that the standard is intended to cover “normal use and reasonably foreseeable misuse or abuse of the product.” These changes harmonize the Introduction with the recommended language approved by the Ad Hoc TG, whose purpose is to develop recommended consistent language for ASTM juvenile product standards. This is a neutral change, because the revisions restate the purpose, consistent with Ad Hoc TG recommended language, but do not impact the existing performance requirements for sling carriers.

b. Marking and Labeling

Section 8.1.1. In the current standard, this section requires products and packaging to be marked with the name, principal place of business (city, state, and mailing address, including zip code), and telephone number and website, if applicable, of either the manufacturer, importer, distributor, or seller. ASTM F2907-21 requires: “The name, place of business (city, state, and mailing address, including zip code), and telephone number of the manufacturer, distributor, or seller. Specifically, the new section has removed “website, if applicable, of either the manufacturer, importer, distributor, or seller” and replaced it with “telephone number of the manufacturer, distributor, seller.” This change is neutral with respect to safety because it harmonizes the language with the recommended language approved by the Ad Hoc TG, and thus promotes consistent messaging for consumers. Furthermore, consumers who have internet access

should be able to find the manufacturer's website with ease, with the information required to be provided.

Section 8.1.2. In the current standard, section 8.1.2. requires products to be marked with a "Model number, stock number, catalog, item number, or other symbol that identifies the specific sling carrier." ASTM F2907-21 has replaced that section to require "A code mark or other means that identifies the date (month and year as a minimum) of manufacture." This requirement was intended to provide consistency with Ad Hoc TG recommendations, and other juvenile products, which do not contain this requirement. While the revised section 8.1.2 no longer requires detailed product-identifying information, sling carriers must still meet the requirements for consumer registration of durable infant or toddler products under 16 CFR part 1130. Specifically, under 16 CFR 1130.4(a), manufacturers are required to permanently mark their products with the manufacturer name and contact information (U.S. address and telephone number, toll free if available), model name and number, and date of manufacturer. Because the combined requirements of sections 8.1.1, 8.1.2, and 16 CFR part 1130 provide comprehensive marking identification information for sling carriers, this change is neutral with respect to safety.

Section 8.1.3. In the current standard, each product and its retail package must indicate the minimum and maximum recommended child's weight for each support area of the carrier. This section is not revised, but it is referenced in new section 8.1.4.

Section 8.1.4. ASTM 2907-21 adds this section to exempt product packaging from the marking and labeling requirements in sections 8.1.1-8.1.3 if the product itself contains all required marking and labeling and if the required on-product markings and labels are visible in their entirety through the retail package. If no retail packaging is used for the product, then the information provided on the product itself will be used for determining compliance. This section specifies that cartons and other materials used exclusively for shipping are not considered retail packaging. This change is neutral with respect to safety because all the markings and labeling

under section 8.1.1-8.1.3 will still be required to be visible to the consumer either on the product packaging or on products that are visible through the packaging.

Section 8.4. ASTM F2907-21 adds the section *Warning Design for Product*. This section harmonizes language in the current standard with the Ad Hoc TG recommendations. This section now specifies that warnings shall be in English at minimum, states that any additional markings or labels shall not contradict or confuse the required information and shall not mislead the consumer, and sets formatting requirements for warnings (font size, text alignment, safety alert symbol, bullet points for cautionary statements, etc.). Consistent with Ad Hoc TG recommendations, the standard uses ANSI Z535.4-2011 as reference for its warning formatting requirements. These changes are an improvement to safety, as they provide a consistent format for manufacturers to follow, and with which consumers will be more familiar.

Section 8.5. In the current standard, manufacturers are required to list a recommended minimum and maximum weight for infants placed in the product. ASTM F2907-21 revises the warning statements to address sling carriers designed for use with two occupants. While single-occupant sling carriers still use the same warning statement in the current standard (Section 8.5.3 and 8.5.3.1), for sling carriers designed for use with two occupants, ASTM F2907-21 adds a requirement for manufacturers to list the recommended minimum infant weight, recommended maximum infant weight, and maximum combined occupant weight (i.e., weight of both occupants) (Section 8.5.3 and 8.5.3.2). These changes are an improvement to safety, as the current standard allows for two-occupant carriers but does not require manufacturers to specify the maximum combined occupant weight.

c. Instructional Literature

Sections 9.1, 9.3, and 9.4 contain revisions to the current standard that are intended to harmonize with the Ad Hoc TG recommended language. The standard now specifies that warnings shall be in English at minimum, states that any additional markings or labels shall not contradict or confuse the required information and shall not mislead the consumer, and it sets

formatting requirements for warnings such as font size, text alignment, safety alert symbol, and bullet points for cautionary statements. These revisions are consistent with the changes made to Section 8.4 to accept Ad Hoc language recommendations, and references ANSI Z535.4-2011 for its warning formatting requirements. These changes provide a consistent format and baseline of requirements for manufacturers to follow. In addition, consumers' understanding of the instructions will improve as they become familiar with the consistent presentation of the text across the range of durable nursery products. These changes therefore improve safety.

Figure 6. ASTM 2907-21 added an example warning referred to as Figure 6. This warning label contains the formatting and statements required by the standard, as well as a pictogram showing proper and improper infant positioning. However, the pictogram shown on this warning was inconsistent with an example positioning pictogram shown in Figure 5 of the current standard. Subsequently, Figure 6 was revised in ASTM F2907-22, to remove the inconsistency.

2. ASTM F2907-22

ASTM F2907-22 incorporates all the revisions from ASTM F2907-21, with one substantive revision. Figure 6 in ASTM F2907-21 contained a pictogram example warning that differed from the example positioning pictogram shown in the same standard's Figure 5. Specifically, the pictogram shown in Figure 6 contained two strikethrough symbols through the incorrect positioning examples. Figure 5 does not contain these strikethrough symbols but was otherwise identical. To correct this inconsistency, the strikethroughs have been removed from Figure 6 in ASTM F2907-22. Although the strikethroughs can be beneficial to some consumers (particularly those who cannot read or speak English), the use of the strikethrough can obscure the image depicted in the pictogram. Overall, the addition of Figure 6 is an improvement to safety as compared to the existing mandatory standard based on ASTM F2907-19, because the standard includes an example warning with the proper formatting and content that manufacturers can reference, yet manufacturers are not required to use the specific pictogram examples shown

in Figures 5 and 6 if a pictogram comparing proper and improper infant positioning for one or two occupants, depending on the design of the product, is included adjacent to the warning text.

3. More Stringent Requirement for Label Attachment

The current mandatory standard includes an additional requirement for label attachment. Specifically, 16 CFR 1228.2(b) requires that “Warning labels that are attached to the fabric with seams shall remain in contact with the fabric around the entire perimeter of the label, when the sling is in all manufacturer recommended use positions.” The Commission added this warning requirement when it promulgated the safety standard for sling carriers, incorporating by reference ASTM F2907-15, and the Commission maintained it when CPSC incorporated by reference the updated version of the standard in ASTM F2907-19. The Commission added this requirement to address concerns that consumers would accidentally or intentionally remove, damage, or otherwise alter “free-hanging” labels that are attached to a product at only one end of the label. The Commission determined that the additional label attachment requirement would improve safety because removing or altering these labels would eliminate the potential safety benefit of the label. ASTM F2907-22 does not include this additional requirement. However, this requirement remains appropriate. Accordingly, the Commission is retaining this additional requirement in 16 CFR 1228.2(b).

C. Incorporation by Reference

Section 1228.2 of the direct final rule incorporates by reference ASTM F2907-22. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section **B. Revisions to ASTM F2907** of this preamble summarizes the major provisions of ASTM F2907-22 that the Commission

incorporates by reference into 16 CFR part 1228. The standard itself is reasonably available to interested parties. Until the direct final rule takes effect, a read-only copy of ASTM F2907-22 is available for viewing, at no cost, on ASTM's website at: <https://www.astm.org/CPSC.htm>. Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: <https://www.astm.org/READINGLIBRARY/>. Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: (301) 504-7479; e-mail: cpSC-os@cpSC.gov. Interested parties can purchase a copy of ASTM F2907-22 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; telephone: (610) 832-9585; www.astm.org.

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051-2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are "consumer product safety standards." Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because sling carriers are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1228 also must comply with all other applicable CPSC requirements, such as the lead content requirements in

section 101 of the CPSIA,⁴ the tracking label requirements in section 14(a)(5) of the CPSA,⁵ and the consumer registration form requirements in section 104(d) of the CPSIA.⁶ ASTM F2907-22 makes no changes that would impact any of these existing requirements.

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing sling carriers. 82 FR 8671 (Jan. 30, 2017). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing sling carriers to 16 CFR part 1228. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified in 16 CFR part 1112. *Id.*

ASTM F2907-22 did not change the testing requirements, testing equipment, or testing protocols for sling carriers. Accordingly, the revisions do not change the way that third party conformity assessment bodies test these products for compliance with the safety standard for sling carriers. Testing laboratories that have demonstrated competence for testing in accordance with ASTM F2907-19 therefore are competent to test in accordance with the revised standard ASTM F2907-22. Laboratories will begin testing to the new standard when ASTM F2907-22 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2907-19 to be capable of testing to ASTM F2907-22 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories’ accreditations to reflect the revised standard in the normal course of renewing their accreditations.

⁴ 15 U.S.C. 1278a.

⁵ 15 U.S.C. 2063(a)(5).

⁶ 15 U.S.C. 2056a(d).

F. Direct Final Rule Process

On June 3, 2022, the Commission provided notice in the *Federal Register* of the revision to the standard and requested comment on whether the revision improves the safety of sling carriers covered by the standard. 87 FR 33755. No comments were submitted. Now, the Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, further notice and comment are not necessary.

Specifically, under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM notifies CPSC that it has revised a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM’s revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC’s standard by operation of law. The Commission is allowing ASTM F2907-22 to become CPSC’s new standard because its provisions improve product safety. The purpose of this direct final rule is to update the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2907-22 takes effect as the new CPSC standard for sling carriers, even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, further notice and comment are unnecessary.

In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on November 19, 2022. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be “one where the commenter explains why the rule would be inappropriate,” including an assertion challenging “the rule’s underlying premise or approach,” or a claim that the rule “would be ineffective or unacceptable without a change.” 60 FR 43108, 43111 (Aug. 18, 1995). As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute, and public comments should address this specific action.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section **F. Direct Final Rule Process** of this preamble, the Commission has determined that further notice and the opportunity to comment are unnecessary

for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for sling carriers includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501-3521). While the revised mandatory standard adds marking, labeling, and instructional literature language for sling carriers, the new requirements would not add to the burden hours because the products already require marking, labeling, and instructional literature. The new requirements merely require revisions to the labeling language in addition to that already required by the standard. Therefore, the new requirements are not measurably more burdensome than the existing requirements. The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1228, and the marking, labeling, and instructional literature for sling carriers are currently approved under OMB Control Number 3041-0159. Because the information collection burden is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Environmental Considerations

The Commission’s regulations provide a categorical exclusion for the Commission’s rules from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or

continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission timely notifies the standards organization that it has determined that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the standard for sling carriers. Therefore, ASTM F2907-22 will take effect as the new mandatory standard for sling carriers on November 19, 2022, 180 days after May 23, 2022, when the Commission received notice of the revision.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a “major rule.”

Pursuant to the CRA, this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1228

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1228 – SAFETY STANDARD FOR SLING CARRIERS

1. The authority citation for part 1228.2 continues to read as follows:

Authority: Sec. 104, Pub. L. 110-314, 122 Stat. 3016 (15 U.S.C. 2056a); Sec 3, Pub. L. 112-28, 125 Stat. 273.

2. Revise § 1228.2 to read as follows:

§ 1228.2 Requirements for Sling Carriers.

(a) Except as provided in paragraph (b) of this section, each sling carrier must comply with all applicable provisions of ASTM F2907-22, *Standard Consumer Safety Specification for Sling Carriers*, approved on April 1, 2022. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at

<https://www.astm.org/READINGLIBRARY/>. You may obtain a copy from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959; telephone (610) 832-9585; www.astm.org. You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, e-mail cpsc-os@cpsc.gov, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, e-mail fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

- (b)(1) Comply with ASTM F2907-22 standard with the following changes:

- (i) In addition to complying with section 5.7.2 of ASTM F2907-22, comply with the following:

(ii) 5.7.3 Warning labels that are attached to the fabric with seams shall remain in contact with the fabric around the entire perimeter of the label, when the sling is in all manufacturer recommended use positions.

(2) [Reserved]

Abioye Mosheim, Acting Secretary
Consumer Product Safety Commission

[FR Doc. 2022-17707 Filed: 8/18/2022 8:45 am; Publication Date: 8/19/2022]